IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 23RD OCTOBER 2007 / 1ST KARTHIKA 1929

Bail Appl..No. 6342 of 2007()

CRIME NO. 172/07 OF CONTONMENT POLICE STATION

PETITIONER

SASIDHARAN, S/O.RAGHAVAN,
CHEMPATHARAPADEETTATHIL, KAPPILMEKKU,
KRISHNAPURAM VILLAGE.

BY ADV. SRI.RASHEED C.NOORANAD

RESPONDENTS:

S.I. OF POLICE, CANTONMENT POLICE
STATION, THIRUVANANTHAPURAM, REPRESENTED BY
PUBLIC PROSECUTOR HIGH COURT OF KERALA AT
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 23/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 6342 of 2007

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Dated this the 23rd day of October, 2007

O R D E R

Application for anticipatory bail. The petitioner apprehends arrest in Crime No. 172 of 2007 of Contonment Police Station, Trivandrum. In the F.I.R. registered, five persons are shown as accused. The petitioner is not named as one of the accused. One Rajan is shown as the third accused. The petitioner now faces arrest as the third accused.

2. The crux of the allegations against the accused persons, five in number, is that they, in furtherance of the common design, induced the defacto complainant to part with an amount of Rs.2.5 lakhs under the pretext that such amount was necessary to purchase stamp papers from the District Treasury. The defacto complainant was made to stand outside and the first accused went inside the Treasury with the amount of Rs.2.5 lakhs. All the accused made themselves scarce. After some time, the defacto complainant made enquiries and found that he had been taken for a ride.

3. The complaint was lodged before the police. Investigation is in progress. The defacto complainant was induced to wrongly

believe that the name of the petitioner was Rajan and that is the reason why the defacto complainant has given the name of the third accused as Rajan. The petitioner is really the person, who is described as Rajan in the F.I. statement. The petitioner is required to be arrested. The prosecution gathers that the booty has been shared by the accused together. Attempt has to be made to recover the same. In any view of the matter, the petitioner may not be granted anticipatory bail, submits the learned Prosecutor.

4. The learned counsel for the petitioner submits that he was not aware that the petitioner has been shown as an accused in the crime. The learned Prosecutor has drawn my attention to the relevant report filed by the Investigating Officer before court to include the petitioner as the real third accused. In these circumstances the learned counsel for the petitioner submits that the petitioner shall surrender before the learned Magistrate and seek regular bail.

5. Having considered all the relevant inputs, I do not find any features in this case, which would justify the invocation of the extra ordinary equitable discretion under Section 438 Cr.P.C. in favour of the petitioner. This, I am satisfied, is a fit case where the petitioner must resort

to the ordinary and normal procedure of appearing before the Investigator or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course.

5. This application is accordingly dismissed. Needless to say, if the petitioner appears before the Investigating Officer or the learned Magistrate having jurisdiction and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously.

(R. BASANT)
Judge

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